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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,165	08/22/2003	Volker Blank	H 5188 PCT/US	1890
423	7590	05/12/2005	EXAMINER	
HENKEL CORPORATION THE TRIAD, SUITE 200 2200 RENAISSANCE BLVD. GULPH MILLS, PA 19406			DOUYON, LORNA M	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/647,165

Applicant(s)

BLANK ET AL

Examiner

Lorna M. Douyon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. This action is responsive to the amendment filed on February 25, 2005.
2. Claims 11-24 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 (which depends from claim1) stands indefinite because the minimum amount of paraffin wax or a mixture of paraffin wax and silicone oil which is 15% is outside the scope of the minimum amount of the same components(s) in claim 1 which is 16%.

Claims 12-24, being dependent directly or indirectly upon claim 11, are rejected as well.

3. Claims 1-4, 6-24 and 26 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Millhoff et al. (US Patent No. 6,340,662), hereinafter "Millhoff" for the reasons set forth in the previous office action.

4. Claims 5 and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Millhoff as applied to the above claims, and further in view of Hall et al. (US Patent No. 6,093,218), hereinafter "Hall" for the reasons set forth in the previous office action.

Response to Arguments

5. Applicants' arguments filed February 25, 2005 have been fully considered but they are not persuasive.

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With respect to the obviousness rejection of claims 1-4, 6-24 and 26 based upon Millhoff, Applicants argue that Millhoff's carrier includes no Bronsted acids and there is no suggestion in the disclosure of Millhoff to use a Bronsted acid alone or combined with an alkali metal carbonate as a carrier for a foam regulator system.

The Examiner respectfully disagrees with the above arguments because the Bronsted acid of Applicants include the acidic salts of tricarboxylic acid as required in claim 3, and as defined by Applicants in the specification on page 6, lines 11-13, which salt reads on the alkali metal citrate of Millhoff. In col. 6, lines 41-57, Millhoff teaches that the solid detergent ingredients to which the emulsion is applied includes inorganic salts, powder-form polycarboxylate co-builders such as alkali metal citrate and other inorganic salts such as alkali metal carbonate, and mixtures thereof. With this teaching it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate alkali metal citrate and alkali metal carbonate as the carrier material because Millhoff suggests their mixture. In addition, it is commonplace in chemistry that acids will react with the common alkali metal hydroxides to form salts, therefore the common salts are said to be unpatentable variants and to be suggested to the chemist by the old acid, see *In re Williams*, 89 USPQ 396.

With respect to the obviousness rejection of claims 5 and 25 based upon Millhoff in view Hall, Applicants argue that Millhoff provides no motivation to put a Bronsted acid in a foam regulator carrier material nor does Hall disclose its acid sources as carriers for antifoam systems.

The response above with respect to Millhoff applies here as well. Hall, the secondary reference, teaches the equivalency of citric acid with a salt thereof, i.e. citrate, as disclosed in col. 9, lines 9-18. Hence, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to substitute the alkali metal citrate of Millhoff with citric acid because the substitution of art recognized equivalents is within the level of ordinary skill in the art.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

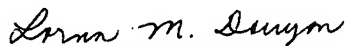
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is (571) 272-1313. The examiner can normally be reached on Mondays-Fridays from 8:00AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Lorna M. Douyon
Primary Examiner
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